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GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER KAWSAR, ABDULLAH AL	
			ART UNIT 2195	PAPER NUMBER
			NOTIFICATION DATE 05/22/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/671,890	<b>Applicant(s)</b> SNYDER, PAUL	
	<b>Examiner</b> ABDULLAH AL KAWSAR	<b>Art Unit</b> 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1 and 3-49 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/15/2009 has been entered.

#### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recited “computer usable medium” of Claim 39. The Specification does not mention the recited “computer usable medium”. Thus, there is no support or antecedent basis for the recited “computer usable medium” that allows the meaning of the terms to be ascertained, as required in 37 CFR 1.75(d)(1).

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claim 39 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 39, the claim recites a “computer useable medium”. However, the specification fails to provide clear support or antecedent basis for these limitations. Without clear support or antecedent basis for “computer usable medium”, it is unclear if Applicant intends to claim something broader than storage media (e.g., RAM, ROM, CD-ROM, disks, etc.) and cover signals, carrier waves and other forms of transmission media. Therefore, the limitation media is not limited to physical articles or objects which constitute a manufacture within the meaning of 35 USC 101 and enable any functionality of the instructions carried thereby to act as a computer component and realize their functionality. Moreover the claim recites “having readable program code” which does not limit the claimed limitation to be stored instead the limitations can be interpreted to be carried or transmitted through computer a usable medium. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2-49 rejected under 35 U.S.C. 103(a) as being unpatentable over Maso et al.(Maso) US Patent Publication 2003/0061265, in view of Fraenkel et al.(Fraenkel) US Patent No. 6738933.

8. As per claim 1, Maso teaches the invention substantially as claimed including a method for managing a transaction processing system(par. 0082), the method comprising:

defining at least one criterion including a system level criterion, a transaction level criterion, a multi-transactional level criterion and a workload characteristic using a server(par. 0089, lines 1-5; par. 0021, 0022, 0023);

defining at least one threshold metric for each of the at least one criterion using the server (par. 0089, lines 7-12);

defining at least one trigger action in response to the at least one threshold metric using the server (par. 0036); and

performing the at least one trigger action in response to the at least one threshold metric being met using the server (par. 0097, lines 1-3); and

Maso does not specifically disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (par. 0054).

However Fraenkel teaches disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (col 3, lines 1-22; col 25, lines 21-29).

9. It would have been obvious to a person of ordinary skill in art at the time of invention was made to incorporate the teaching of Fraenkel into the method of Maso to have interval

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criterion matrix data created by an administrator. The modification would have been obvious because one of the ordinary skills of the art modify the teaching of Maso to have customized interval as source data to be able to perform system management based on user preference.

10. As per claim 3, Maso teaches defining at least one trigger action step includes defining at least one of a system level trigger action and a transaction level trigger action (par. 0022; par. 0036).

11. As per claim 4, Maso teaches at least one criterion includes at least one of a processor utilization characteristic, memory utilization characteristic, an input/output characteristic, a storage characteristic, and a network interface characteristic (par. 0125, lines 6-10).

12. As per claim 5, Maso teaches defining at least one threshold metric includes defining at least one of a single and a progressive variable relative to a measurement of an aspect of the transaction processing system (par. 0052; par. 0128, lines 1-4).

13. As per claim 6, Maso teaches including repeating each of the steps at predefined intervals (par. 0012, lines 13-15).

14. As per claim 7, Maso teaches at least one trigger action includes at least one of changing the priority of a transaction, terminating a transaction, delaying a transaction, quiescing a

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transaction, causing another system to stop forwarding transactions, triggering routing of transactions to a different system, and ending a process(par. 00128, lines 4-8).

15. As per claim 8, Fraenkel teaches defining at least one transaction identifier that identifies subsets of transactions (col 12, lines 36-45); and

defining at least one transaction level threshold metric associated with the at least one transaction identifier (col 18, table 1, “transactions”, lines 22-25).

16. As per claim 9, Fraenkel teaches performing step performs the at least one trigger action on a transaction associated with the at least one transaction identifier (col 18, table 1, “Alarms”, lines 37-40).

17. As per claim 10, Fraenkel teaches performing step performs when the at least one transaction level threshold metric is met (col 11, lines 50-66).

18. As per claim 11, Fraenkel teaches defining a system level threshold metric(col 26, table 2); and

associating the system level threshold metric with the at least one transaction identifier and with the at least one transaction level threshold metric (col 4, lines 54-62; figure 22, 23, 24; col 18, table 1; col 21, lines 17-57; col 25, lines 21- 67 through col 26, lines 1-9; col 28, lines 8-19).

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19. As per claim 12, Fraenkel teaches the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met (col 25, lines 45-67 through col 26, lines 1-2; col 46, lines 5-11).

20. As per claim 13, Fraenkel teaches defining at least one transaction identifier includes defining a transaction group identifier (col 12, lines 36-45).

21. As per claim 14, Fraenkel teaches defining at least one threshold metric defines a transaction group level metric (col 15, lines 6-11).

22. As per claim 15, Maso teaches loading runtime parameters(par. 129, lines 1-8);  
validating the runtime parameters(par. 0130, lines 1-4); and  
terminating processing if the parameters are deemed unacceptable(par. 0130, lines 4-5).

23. As per claim 16, Fraenkel teaches acquiring a transaction list of currently executing transactions (figure 16, col 17, lines 20-23);

collecting details for each of the currently executing transactions(figure 16; col 29, lines 2-8) ;

evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions (col 17, lines 26-30; col 29, lines 8-14); and



performing actions when the evaluation step determines a threshold has been met(col 11, lines 2-13).

24. As per claim 17, Fraenkel teaches acquiring a list of aggregate transaction groups (col 3, lines 24-40; col 4, lines 54-60);

collecting details for each aggregate transaction group (col 4, lines 50-54);

evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group (col 4, lines 54-60; col 31, lines 55-62); and

performing actions when the evaluation step determines a threshold has been met (col 11, lines 2-13).

25. As per claim 18, Maso teaches comprising collecting data on the status of the transaction processing system, wherein the collecting is performed by one of executable collection logic and interpretable definitions (par. 0142).

26. As per claim 19, Maso teaches the invention substantially as claimed including a method of managing a system, comprising the steps of:

determining current conditions of a workload characteristic using a server (par. 0089, lines 1-7);

evaluating the current conditions of the workload characteristic using the server (par. 0089; lines 7-12; par 0097, lines 1-7) and

dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of the workload characteristic using the server; and(par. 0089; 0097).

Maso does not specifically disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (par. 0054).

However Fraenkel teaches disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (col 3, lines 1-22; col 25, lines 21-29).

27. As per claim 20, Maso teaches the workload characteristic is at least one of a transaction workload characteristic and a system environment workload characteristic (par. 0022).

28. As per claim 21, Fraenkel teaches the workload characteristic is a transaction processing system characteristic (abstract, lines 3-7).

29. As per claim 22, it has similar limitations as of 7 above. Therefore it is rejected under the same rational as of claim 7 above.

30. As per claim 23, it has similar limitations of combinations of claims 8 and 11 above. Therefore it is rejected under the same rational as of combination of claims 8 and 11 above.

31. As per claim 24 and 25, they have similar limitations as of claims 12 and 10 above.

Therefore they are rejected under the same rational as or claims 12 and 10 above.

32. As per claim 26, Maso teaches the invention substantially as claimed including a system for managing a transaction processing system(par. 0082), the system comprising:

a means for defining at least one criterion, wherein the at least one criterion is a workload characteristic of the transaction processing system(par. 0089, lines 1-5);

a means for defining at least one threshold metric for each of the at least one criterion (par. 0089, lines 7-12);

a means for defining at least one trigger action in response to the at least one threshold metric (par. 0036); and

Maso does not specifically disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (par. 0054).

However Fraenkel teaches disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (col 3, lines 1-22; col 25, lines 21-29).

33. As per claims 28, it has similar limitations as of claim 15 above. Therefore it is rejected under the same rational as of claim 15 above.

34. As per claim 27 and 29, they have similar limitations as of claims 23 and 16 above.

Therefore it is rejected under the same rational as of claims 23 and 16 above.

35. As per claim 30, Fraenkel teaches a criterion matrix, wherein the criterion matrix comprises:

- a system level metric entry that provides a system level threshold for a system level workload characteristic(col 26, table 2);

- a transaction identifier entry that provides an identification for one of a transaction and a transaction group(col 12, lines 36-45);

- a transaction level metric entry that provides a transaction level threshold for transaction type defined by the transaction identifier(col 18, table 1, "transactions", lines 22-25); and

- a facility action entry for identifying logic to be executed if at least one of the system level threshold and the transaction level threshold is met (col 46, lines 5-23).

36. As per claim 31, Fraenkel teaches a means for performing the at least one trigger action in response to the at least one threshold metric being met (col 11, lines 2-13).

37. As per claims 32, 33 and 35, they have similar limitations as of claim 19, 20 and 7 above. Therefore they are rejected under the same rational as of claim 19, 20 and 7 above.

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38. As per claim 34, 37 and 38, they have similar limitations as of claims 21, 12 and 10 above. Therefore they are rejected under the same rational as or claims 21, 12 and 10 above.

39. As per claim 36, it has similar limitations of combinations of claims 8 and 11 above. Therefore it is rejected under the same rational as of combination of claims 8 and 11 above.

40. As per claim 39, it has similar limitations as of claim 1 above. Therefore it is rejected under the same rational as of claim 1 above.

41. As per claim 40, Fraenkel teaches wherein the workload characteristic is in a pre-provided list of characteristics configured to be assessed by a facility (col 18, lines 48-53).

42. As per claim 41, Fraenkel teaches wherein each aggregated transaction group is built and administered by an administrator (col 13, lines 55-65).

43. As per claim 42, Fraenkel teaches wherein each aggregated transaction group is pre-built and obtained from an electronic source (col 12, lines 5-35).

44. As per claim 43, Fraenkel teaches wherein the system level criterion is dynamically evaluated based upon system-level health characteristics (col 4, lines 46-62; col 5, lines 10-27; col 21, lines 17-57).

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45. As per claim 44, Fraenkel teaches wherein the transactional level criterion is dynamically evaluated based upon transaction-specific characteristics (col 4, lines 46-62; col 5, lines 10-27; col 16, lines 23-30).

46. As per claim 45, Fraenkel teaches wherein the multi-transactional level criterion is dynamically evaluated based upon transaction-specific characteristics (col 4, lines 46-62; col 5, lines 10-27; col 16, lines 23-30; col 17, table 1; figure 16).

47. As per claim 46, Fraenkel teaches wherein the facility is a software extension of the transaction processing system (col 1, lines 16-17; col 2, lines 47-65).

48. As per claim 47, Fraenkel teaches evaluating the system level criterion from an interval criterion data source (col 4, lines 45-62);

checking whether the system level criterion evaluation results in a required action (col 3, lines 62-65);

determining whether there are additional system level criterion evaluations to be performed (col 4, lines 63-67 through col 5, lines 1-19); and

carrying out the required action, which is defined by the interval criterion data source, using logic of an interval criterion action (col 3, lines 62-67).

49. As per claim 48, Fraenkel teaches wherein the interval criterion action includes informing a peer server that a triggering server is available to accept work, alerting a remote operator of an

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anomalous condition, or triggering a diagnostic trace on a storage area network unit (col 21, lines 13-40; col 3, lines 1-22; col 25, lines 21-29; col 39, table 6; col 46, lines 5-22).

50. As per claim 49, Maso teaches using an interval controller to halt processing for a set period of time, act upon various timers which change based upon results of scan cycles, and resume processing based upon one or more system characteristics (par. 0012).

### ***Response to Arguments***

51. Applicant's arguments filed 04/11/2009 have been fully considered but they are not persuasive.

52. In the remarks applicant argues:

(1) Maso and Fraenkel fail to teach “disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source”.

(2) Maso fails to teach “a system level criterion, a transaction level criterion, multi transaction level criterion **and** a workload characteristic”.

i. As to point (1), applicant supports his argument mentioning that Maso and Fraenkel fail to teach the newly added limitation “disclose implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built

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electronic source”. Examiner respectfully disagrees with the applicant. Fraenkel teaches transaction processing and monitoring system wherein the transactions are monitored and the data are collected in a time interval which is either a default schedule or used assigned (col 25, lines 21-29).

ii. As to point (2), applicant supports his argument mentioning that Maso teaches “instrument system performance matrices, including SNMP statistics, Windows 2000/NT, Perfmon matrices.” but fails to teach “a system level criterion, a transaction level criterion, multi transaction level criterion **and** a workload characteristic”. Examiner respectfully disagrees with the applicant. The claimed limitation is broad and does not specifically disclose in terms of what is included and excluded in the “a system level criterion”, “a transaction level criterion”, “multi transaction level criterion” and “a workload characteristic”. There is no specific definition provided in the specification for any of those terms for limiting those terms to any specific metrics. Also the claim language does not limit the claim to include all the criterion as the claim recites “**at least one** criterion including a system level criterion, a transaction level criterion, multi transaction level criterion and a workload characteristic”. If the applicant wants the examiner to consider all of the criterion listed in the limitation to define one criterion, applicant is suggested to amend the claim to "including all of the criterion" for consideration.



*Conclusion*

53. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABDULLAH AL KAWSAR whose telephone number is (571)270-3169. The examiner can normally be reached on 7:30am to 5:00pm, EST.

54. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai T. An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

55. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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